UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/735,193	12/11/00	ABDULLOVSKI	F

EXAMINER	
WEINSTEIN, S	
ART UNIT	**PAPER NUMBER**
1761	6

IM52/1105

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DATE MAILED: 11/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/735193	ABDULLOVSKI
Examiner	**Group Art Unit**
S. WEINSTEIN	1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☑ Responsive to communication(s) filed on 9/12/01.

☑ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 3 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 3 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)–(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO–1449, Paper No(s). _____

☐ Interview Summary, PTO–413

☐ Notice of Reference(s) Cited, PTO–892

☐ Notice of Informal Patent Application, PTO–152

☐ Notice of Draftsperson's Patent Drawing Review, PTO–948

☐ Other _____

Office Action Summary

Applicant has cancelled the "previous" claims and has introduced a new one. Since the originally filed claims were only claims 1 and 2, newly added claim 7 should be renumbered claim 3 (37 CFR 1.126).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reference U' in view of Reference V' and Reference V", further in view of References V, U, W, X, N and applicant's admission of the prior art for the reasons fully and clearly detailed in the Office action mailed June 11, 2001, paper no. 4.

Claim 3 now recites that the package is a "souffle cup" package. As noted previously, applicant's admission of the prior art discloses he employs one of two industry wide type of condiment container; ie. either a souffle cup or a squeezeable packet. Therefore, the condiment or dip package is conventional. To modify the combination and substitute one conventional package for another conventional package for its art recognized and applicant's intended function would have been unequivocally obvious. Claim 3 also now recites that the condiment is a specific dip, either bean or cheese. Applicant is obviously not the inventor of either type of dip. In any case, not only does the art taken as a whole teach associating a smaller complimentary

dip package with a package of tortilla chips (eg. Reference U' - a salsa dip) but it is also well known to employ cheese dip as a complimentary dip for tortilla chips. To modify the combination and substitute one conventional dip for another conventional dip would have been an obvious matter of choice.

All of applicant's urgings filed September 12, 2001, paper no. 5 have been fully and carefully considered but are not found to be convincing. Applicant argues each reference separately as if it were applied alone in a vacuum. The references are not applied alone under 35 U.S.C. 102 anticipation but are combined under 35 U.S.C. 103, obviousness. The fact is, the art taken as a whole teaches applicant is not the first to provide a package comprising a bag of tortilla chips containing a smaller package of dip that is complementary with the chips contained in the chip package; applicant is not the first to employ souffle type cups, applicant is not the first to provide souffle style cups with a dip and applicant is not the first to provide a cheese dip for tortilla chips. Applicant has combined a series of conventional expedients and employed them for their well known and intended function and achieved no new or unexpected result therefore. In summary, it would have been obvious in view of the art taken as a whole to modify Reference U' as further evidenced by References V' and V" and substitute one conventional package structure for another conventional package structure and one conventional dip for another conventional dip.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Mr. Weinstein at telephone number (703) 308-0650.

Mr. Weinstein/om
October 25, 2001
October 30, 2001

STEVEN WEINSTEIN
PRIMARY EXAMINER
ART UNIT 122 (761)
11/2/01